

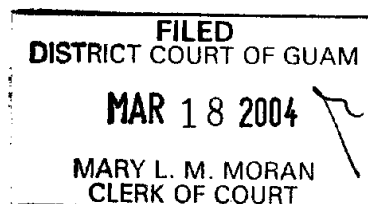
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*Attorneys for Plaintiff
Thomas Koichi Nakamine
dba: Takai's Enterprise*

**IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM**

THOMAS KOICHI NAKAMINE
dba TAKAI'S ENTERPRISE,

Plaintiff,

vs.

CITIBANK, N.A. (GUAM), PATRICK
KEHRES, individually, and DOES 1-10,
inclusive,

Defendants.

CIVIL CASE NO. 03-00047

JSu
~~PROPOSED~~-SCHEDULING
ORDER

Pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.1 for the District Court of Guam, the parties hereby submit the following Scheduling Order:

1. The nature of the case is as follows: Plaintiff, THOMAS KOICHI NAKAMINE dba TAKAI'S ENTERPRISE, ("Takai") initiated this lawsuit by filing a five-claim complaint in the Superior Court of Guam. In the first claim, plaintiff alleges that Citibank breached its contractual duties to the plaintiff by failing to timely process plaintiff's telegraphic funds transfer application. The second claim is for breach of the same contract, except that here plaintiff contends that Citibank breached a contractual duty of good faith and fair dealing. In the third claim (which

contain three sub-counts) plaintiff, relying on 13 G.C.A. § 4104(1), alleges that Citibank was negligent in the handling and processing of plaintiff's wire transfer requests. In the fourth claim, plaintiff alleges Citibank's action resulted in the intentional infliction of emotional distress. In the fifth claim plaintiff alleges that both Citibank and defendant Kehres converted plaintiff's funds held by Citibank by refusing to immediately release them to the plaintiff.

Citibank denies all allegations of wrongdoing.

2. **The posture of the case is as follows:** Plaintiff filed a Complaint with a request for jury trial on December 12, 2003. Defendants timely removed the matter to the District Court of Guam on December 31, 2003 pursuant to the 12 U.S.C. § 632 ("the Edge Act"). Defendants thereafter timely responded to the Complaint by filing an Answer on January 5, 2004.

(a) **The following motions are on file:** No motions have been filed by any party.

(b) Discovery will proceed in accordance with the Joint Discovery Plan incorporated herein.

3. All motions to add parties and claims shall be filed on or before **June 30, 2004**.

4. All motions to amend pleadings shall be filed on or before **April 30, 2004**.

5. **Status of discovery:** The parties' Joint Discovery Plan filed herewith is adopted and incorporated as part of this Scheduling Order.

6. ~~The parties shall appear before the District Court on **March 30, 2004**, at **3:15 p.m.**, for the Scheduling Conference.~~

7. The discovery cut-off date (defined as the last day to file responses to discovery) is **September 30, 2004**.

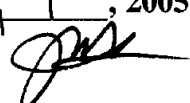
8. (a) The anticipated discovery motions are: At this time the parties do not anticipate any discovery disputes.

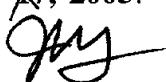
All discovery motions shall be filed on or before **October 11, 2004**, and heard on or before **November 9, 2005**.

(b) Each side anticipates filing motions which will be dispositive as to one or more issues.

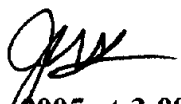

All dispositive motions shall be filed on or before **December 6, 2004**, and heard on or before **January 12, 2005**.


9. **The prospects for settlement are:** The parties are open to settlement, but the case had not yet developed to the point where they can assess the prospects for settlement.

10. The Preliminary Pretrial Conference shall be held on February 1, 2005, at 3:00 p.m. 

11. The parties' pretrial materials, discovery materials, witness lists, designations and exhibit lists shall be filed on or before **February 7, 2005**. This date is fourteen (14) days before the trial date. 

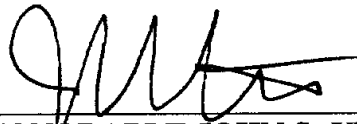
12. The Proposed Pretrial Order shall be filed or before **February 7, 2005**. This date is fourteen (14) days before the trial date.

13. The Final Pretrial Conference shall be held on February 15, 2005 at 3:00 p.m. 
This date is ~~twenty one (21)~~ ^{seven (7)} days before the trial. 

14. The trial shall be held on February 22, 2005 at 9:30 a.m. This period is within eighteen (18) months of the filing of the Complaint. 

15. The trial is a jury trial.
16. It is anticipated that it will take five (5) days to try this case.
17. The names of counsel on this case are: Mark S. Smith representing Plaintiff, and G. Patrick Civile, representing Defendants.
18. A settlement conference is requested.
19. The parties present the following suggestions for shortening trial: None at the present time due to the case being in the early stages.
20. The following issues will also affect the status or management of the case: None anticipated at the present time.

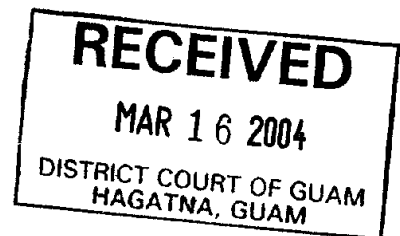
IT IS SO ORDERED this 18th day of March, 2004.


HONORABLE JOHN S. UNPINGCO
CHIEF DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

LAW OFFICES OF MARK S. SMITH

By: 
MARK S. SMITH
Attorneys for Plaintiffs



Date: March 15, 2004

TEKER CIVILLE TORRES & TANG, PLLC

By: 
G. PATRICK CIVILLE
Attorneys for Defendants

Date: March 15, 2004

LAW OFFICES OF MARK S. SMITH

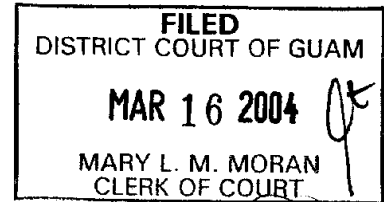
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Attorneys for Defendants



**IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM**

THOMAS KOICHI NAKAMINE
dba TAKAI'S ENTERPRISE,

Plaintiff,

vs.

CITIBANK, N.A. (GUAM), PATRICK
KEHRES, individually, and DOES 1-10,
inclusive,

Defendants.

CIVIL CASE NO. 03-00047

JOINT DISCOVERY PLAN

The parties having met and conferred hereby submit their proposed Joint Discovery Plan
in accordance with Rule 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.1(b)

A. Initial Disclosures

The parties shall complete their initial disclosures in accordance with Rule 26(a)(1) of the Rules of Civil Procedure on or before April 12, 2004, which is within fourteen days (14) following the Rule 26(f) conference.

B. Interrogatories and Requests for Production

Both parties anticipate serving initial sets of requests for production of documents and interrogatories within thirty (30) days following completion of the initial disclosures. Both parties reserve the right to serve a second set of request for production and interrogatories should the need arise during the course of the discovery process.

C. Fact Witnesses and Depositions

The parties anticipate that there will be approximately ten (10) fact witnesses that will need to be deposed. Those depositions will begin following the receipt of the responses to the initial set of written discovery and will probably continue throughout the discovery phase.

D. Expert Designation and Reports

1. Plaintiff shall designate its experts and serve their reports in accordance with Rule 26(a)(2)(B) on or before , 2004.

2. Plaintiff shall designate his experts and serve their reports in accordance with Rule 26(a)(2)(B) on or before June 30, 2004.

3. Defendant shall designate its rebuttal experts, if any, and serve their reports in accordance with Rule 26(a)(2)(B) on or before August 16, 2004.

E. Expert Depositions

Depositions of all testifying experts will be scheduled to take place during the months of September, 2004.

F. Discovery Completion

The parties presently anticipate that all necessary discovery can be completed by September 30, 2004, assuming the availability of the necessary witnesses and the lack of any discovery disputes requiring rulings by the Court.

LAW OFFICES OF MARK S. SMITH

Date: March 15, 2004

By: 

MARK S. SMITH
Attorney for Plaintiff

TEKER CIVILLE TORRES & TANG, PLLC

Date: March 15, 2004

By: 

G. PATRICK CIVILLE
Attorneys for Defendants